

January 25, 2005

Earl Allen Haywood
PO Box 1000 27453-1006
Butner Federal Prison Camp
Butner, NC 27519

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2005 JAN -8 A 10:52

Bradley A. Smith
Chairman
Federal Election Commission
999 E St. NW
Washington, DC 20463

RE: MUR 5610

Dear Mr. Smith:

I am writing in response to your letter dated November 29, 2004 notifying me about MUR 5610. I received your letter on January 12, 2005. I will not be represented by counsel, since I cannot afford to hire anyone.

As you are aware, I am currently serving an 18-month sentence in Federal Prison and have been ordered to re-pay to the Dole/NC Victory Committee approximately \$174,000. This sentence and re-payment is a result of actions which are the subject of your letter as well, so I do not dispute the general nature of your letter's characterization of what happened during my tenure with the Dole/NC Victory and North Carolina Salute Committees. However, I would like to provide some clarification and explanation concerning

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some aspects of this matter. Please keep in mind that I have no access to either personal or committee records at this point.

Since 1987, I have done accounting and Federal Election Commission reporting for various campaigns and committees. For most of that time period, my title was Comptroller, Assistant Treasurer, or Treasurer at the various organizations that I worked for. My responsibilities included all aspects of the accounting function, both internally and regarding disclosure reports to the Commission. Through 2001, my work for these various committees was as an employee on payroll.

When I was first approached to do work for the Dole North Carolina Salute Committee and later for the Dole/NC Victory Committee, it was to do one event only for a fixed fee. After the initial events, this work continued on an open-ended basis, and although I asked both the chairman of the North Carolina Republican Neil Rhodes and the Dole campaign Manager Mark Stevenson repeatedly about a contract for my services, this was never formalized and resolved. I was working alone in an office in Washington, D.C. and the campaign and the state party were both located in North Carolina. I was

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a remote "satellite" branch trying to deal with headquarters operations that while well-meaning, never found the time to deal with this matter. Each time I called or emailed, the crisis-of-the-day was consuming the principals and we would need to address my contract "later." "Later" never came. Even as late as the first quarter of 2001, I was still contacting Neil Rhodes and Mark Stevenson trying to get a contract.

In July of 2000, when I had not yet been paid by the joint committee beyond the initial events, I wrote the first check to myself for \$6,000 based on the amount I had been paid for earlier work for these committees. I was in regular contact with both the campaign manager and the state party chairman concerning my contract, and assumed that the matter would be resolved shortly. Although I should not have written this first check without a contract, the payment was in line with previous payments and I assumed that a contract would be finalized at any time. It never occurred to me that I would work for most of the following year without a contract. In any event, it was careless of me to write this check without having first insisted on getting a contract. Having written this check, I then compounded the problem by not including it on the

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subsequent disclosure report, since I was still trying to get a contract approved. The issue was not that I was in some sort of a dispute with the campaign organization, but simply that I could not get their attention long enough to address and settle the matter. I wanted to get formal approval for my fees before I began putting them on the disclosure reports. Unfortunately, this whole process continued. I was working long hours trying to keep up with a growing volume of data to process, and the campaign was busy down in North Carolina 350 miles away. Although I continued to follow-up regularly at both the campaign and the state party, we never addressed and settled the issue of my contract and I continued to write regular checks payable to myself for services, and also did not disclose these payments on the committee's reports. I was planning all the while to get a contract and amend the reports but neither of these things ever happened.

I realized of course that this was not the way in which this situation should have been handled. I should have insisted on a contract before doing any more work, and regardless of the contract status, should not have made payments to myself or omitted them from the disclosure reports. My intent was not to defraud the

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committee in any way, but simply to be paid for the substantial work that I was doing. I was not forceful enough in my dealings with the committee to demand a formal contract. However, in spite of what I would characterize as a lack of any sinister intent, I did pay significant funds to myself and while I was trying to rectify the contract problem, withheld those payments from the required disclosure reports.

I would like to put the amount at issue into context. For the several years prior to my work for the committees referenced in this MUR, I had been paid for similar work at a rate of \$10,000-\$12,500 per month as an employee at various campaign organizations. For the joint committees at issue here, I had no additional staff and was performing all functions myself, from opening mail to data entry to disbursements and reporting. A long-time colleague Ted Koch of Koch & Hoos received an amount similar to what I received over the same time period (approximately \$150,000) for accounting work he performed directly for the Dole campaign, which also had additional accounting staff, volunteers, and a CPA firm to cover all the functions that I was performing myself. The volume at the joint committee was lower, but was still significantly higher than

initially anticipated by either me or the campaign. This does not change the fact that these payments should have been properly approved and disclosed and that it was my responsibility to do both of these things regardless of how busy staff in North Carolina were or how busy I was in Washington.

I would like to address a few specific comments which I believe misconstrue some of the circumstances in this matter. On page 2 under item III "Factual and Legal Analysis," line 10 says "he started receiving contributor checks at his home in Washington, D.C." I would like to clarify that I never received checks at my home. All checks were sent to an office on 2nd St. NE. I believe this was also the same address that was on file with the Commission as my address as Assistant Treasurer.

On page 3 lines 1 and 2, a reference is made to the memo notations for "postage." These entries were not made concurrent with the payments. The payments were not reported or disclosed anywhere as postage other than as internal memo entries for tracking purposes, for the payments which I was still hopeful to get approved and disclosed.

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I dispute entirely the phrase on page 3 line 15 "Haywood deposited campaign contributions into his personal account." I do not here just suggest lack of intent or mis-characterization, but rather this statement is factually wrong. You may be relying on other material, but whenever this was presented to me or suggested on other occasions, I have denied this characterization as well. If the suggestion is that I deposited funds into campaign accounts and then made unauthorized and unreported payments which were deposited into my account, then that is of course what happened. However, if this phrase is meant to suggest that I actually deposited contributions directly into my personal account, that did not happen. This distinction may not seem or be important, but it is to me. However misguided and wrong my actions may have been in making payments to myself for services that I was performing, without an approved contract, and then withholding these payments from disclosure reports while I was trying to rectify the contract situation, "receiving contributions at my home" and "depositing contributions directly into my personal account" are both things that simply did not happen and to me at least suggest something different and

more sinister that what was actually going on.

Regarding "converting funds for personal use," I would again make the distinction between payments for services, unauthorized and unreported, and depositing contributions directly into my personal account. I do not know if this distinction matters in this instance, but I would like to make it clear.

I believe the wording in the first several lines on page 5 is the Government's wording from my case, which I would have phrased differently. Fundraising staff on the committees sent checks to me at an office outside of my home, by mail and by Federal Express, which I deposited solely into campaign accounts. I subsequently wrote checks from those funds to myself which were deposited into my personal account.

What I do not dispute is that I made payments to myself, for services, that I should not have made without a contract or other express campaign approval. I did this not with any intent to defraud the campaign in any way, but in frustration at not having been able to get the attention of campaign management long enough to finalize my contract for the work I was doing. The payments I received were in line with what I had been paid before for similar work and with what others were paid in this same election cycle. Other than the

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payments at issue here, I was not paid at all for all the work I did from July 2002 through the spring of the following year. However, I know that I should have both gotten these payments properly approved and included them on the committee's disclosure reports. I did not at any time deposit contribution checks directly into my account. If this assertion is being inferred from the fact that I deposited contributions into campaign accounts and then later wrote checks payable to myself for services rendered and deposited those checks into my personal account, I would not take issue with the facts other than the wording. I did not, however, actually deposit contribution checks into my personal account ever.

I made a mistake, by continuing to work without a contract. I compounded that mistake by simply issuing payments to myself for this work rather than confronting the campaign in a more aggressive manner. I then compounded the situation exponentially by withholding these payments from the disclosure reports until I could resolve the matter internally, which never happened.

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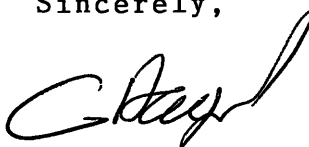
When this situation first came to the attention of the campaign manager, Mark Stevenson, he was already aware of the fact that I had been working without a contract the whole time and knew that I had contacted him repeatedly about resolving this situation. I was initially hopeful that I would have the chance to resolve the pay issue of this matter directly with the campaign to our mutual satisfaction and amend the disclosure reports accordingly. I was led to believe that I would have the opportunity to work things out with the campaign before any outside steps were taken, as had been the case with some other similar situations that I had heard of in the past. That did not turn out to be the case, however, as the campaign's attorney chose to involve federal authorities in this matter, foreclosing any other means of settlement.

The result of my actions, and the campaign's response, is that I am now serving an 18-month sentence in federal prison and have been ordered to re-pay the approximately \$174,000 at issue. While I hope that additional sanctions or punishment for the same actions will not be necessary, I cannot contest the general nature of the issues raised in your letter. Although I take issue with some of the specifics and the choice of wording, I do not deny the basic elements of what happened. My lack of sinister intentions and

my plan to amend and correct the reports once the contract was approved does not change the facts of what I did.

I will add the Commission to the long list of those to whom I have already apologized for my actions. I regret what I did, and I regret that it is now still taking additional time and resources to address this matter. I hope to put this behind me as soon as possible, and will work the Commission in trying to bring this matter to as rapid a conclusion as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Haywood", with a stylized flourish extending from the end.

Allen Haywood